

DISTRICT OF MASSACHUSETTS
UNITED STATES DISTRICT COURT

IN RE: PHARMACEUTICAL) MDL No. 1456
INDUSTRY AVERAGE WHOLESALE)
PRICE LITIGATION) CIVIL ACTION NO. 01-CV-12257-PBS
)
) Judge Patti B. Saris
)
THIS DOCUMENT RELATES TO:)
)
ALL ACTIONS)
)

**AFFIDAVIT OF THOMAS M. SOBOL RELATING TO PLAINTIFFS'
OPPOSITION TO DEFENDANTS' MOTIONS TO DISMISS THE AMENDED
MASTER CONSOLIDATED COMPLAINT**

I, Thomas M. Sobol, depose and say as follows:

1. I am member of the bar of the Supreme Judicial Court of the Commonwealth of Massachusetts and a member of the United States District Court for the District of Massachusetts. I am a partner at the law firm of Hagens Berman LLP. I am Liaison Counsel and Co-Lead Counsel for the Plaintiffs in the above-captioned action. I submit this affidavit regarding Plaintiffs' Opposition to Defendants' Motions to Dismiss the Amended Master Consolidated Complaint.

2. Attached hereto as Exhibits A thru J are true copies of the following documents:

<u>Exhibit No.</u>	<u>Document Description</u>
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- A. *Photocopies of certain pages of Defendant TAP's website (www.tap.com/about/together) and of the Together Rx Program website (www.together-rx.com/druglist/abbott/prevacid.html).*
- B. E. M. Kolassa, *Elements of Pharmaceutical Pricing*, The Pharmaceutical Products Press (1997) (pp. 36-37).

- C. *Medicare Part B Drug Program Payments Should Reflect Market Prices.* GAO-01-1142T. (Sep. 21, 2001). (P005579-005592)
- D. *Medicare Outpatient Drugs – Program Payments Should Better Reflect Market Prices.* GAO-02-531T. (Mar. 14, 2002). (P005642-005655)
- E. *Medicaid Pharmacy – Actual Acquisition Cost of Generic Prescription Drug Products.* A-06-01-00053. (Mar. 4, 2002). (P006549-006567)
- F. Minutes, Medicare Payment Advisory Commission Public Hearing. (Sept. 13, 2002).
- G. *Report to Congress: Variation and Innovation in Medicare.* Medicare Payment Advisory Commission. (Jun. 12, 2003)
- H. *Payments for Covered Outpatient Drugs Exceed Providers' Cost.* GAO-01-01118. (Sep. 21, 2001). (P005579-005592)
- I. *The Impact of High Priced Generic Drugs on Medicare and Medicaid, Draft Report.* (OEI-03-97-00510). (May 8, 1998)
- J. *Review of Epopen Reimbursement* (A-01-92-00506). (Feb. 1, 1993)
- K. *An Additional Source of Average Wholesale Price Data in Pricing Drugs and Biologicals Covered by the Medicare Program.* HCFA Program Memorandum Rev. AB-00-86, Change Request No. 1232. (Sep. 8, 2000).

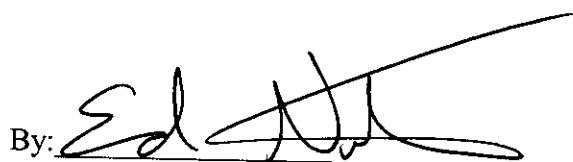
I say the forgoing under the pains and penalties of perjury on this 15th day of September, 2003.



Thomas M. Sobol

CERTIFICATE OF SERVICE

I hereby certify that I, Edward Notargiacomo, an attorney, caused true and correct copies of the foregoing Affidavit of Thomas M. Sobol Relating to Plaintiffs' Opposition to Defendants' Motions to Dismiss the Amended Master Consolidated Class Action Complaint to be served on all counsel of record electronically, pursuant to Section D of Case Management Order No. 2., this 15th day of September, 2003.

By: 

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